



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/776,542

02/10/2004

Christopher Powell DeBolt

554-1-002

3119

27469

7590

01/22/2009

Tjrope North & Western
P.O. BOX 1219
SANDY, UT 84091-1219

EXAMINER

HYUN, PAUL SANG HWA

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/776,542	Applicant(s) DEBOLT, CHRISTOPHER POWELL	
	Examiner PAUL S. HYUN	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed on October 21, 2008 has been acknowledged. Claims 1-6 and 9-19 are currently pending. Applicant amended claims 6, 9, 10, 15 and 19.

The amendment to the Specification to correct a minor typographical error has been acknowledged.

Applicant's argument with respect to the rejection has been fully considered and it is persuasive. The Examiner agrees with Applicant that the holes disclosed by the DeBolt reference do not constitute a groove. Therefore, the rejections have been withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims **1-3, 6 and 9-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBolt in view of Fritschi et al. (US 5,344,179).

The DeBolt reference submitted by Applicant in the IDS shows a microplate indexing device bearing the name Speedview®. Speedview® comprises a base platform designed to be attached to the stage of a microscope, and an indexing platform adapted to receive a microplate thereon. Each platform comprises a view-through

Art Unit: 1797

portion aligned with one another to enable viewing of the samples in the wells of the microplate by using a microscope. The indexing platform further comprises a pair of parallel rails that enable the microplate to slide in a single axis, and a column of indexing holes formed in each side of the view-through portion that interacts with a pair of indexing pins provided on the base platform to enable the indexing platform to move in a sequential manner in a direction that is transverse to the direction enabled by the rails. The indexing platform also comprises a plurality of labels, each label associated with an indexing hole. The device disclosed by DeBolt differs from the claimed invention in that DeBolt does not disclose the claimed guide groove. In addition, the indexing pins and the indexing holes of the Speedview® are situated on the base platform and the indexing platform, respectively, instead of the indexing platform and the base platform, respectively.

With respect to the guide groove, Fritschi et al. disclose an adjustable binding for a snowboard (see Figs. 15 and 16). The binding is secured to the snowboard by a pair of pins and it can be adjusted by affixing one of the pins 87 to one of a plurality of holes 91 disposed along an axis of the snowboard. The binding system further comprises pin 88 inserted into groove 90 disposed on the snowboard that maintains the binding in alignment with the snowboard while pin 87 is being adjusted. In light of the disclosure of Fritschi et al., it would have been obvious to one of ordinary skill in the art to provide the device disclosed by DeBolt with a guide groove that can maintain the base platform and the indexing platform in alignment while the indexing platform is moved in a sequential manner.

Art Unit: 1797

With respect to the arrangement of the pins and the holes, it would have been obvious to one of ordinary skill in the art to switch the locations of the indexing pin and the indexing holes such that the indexing pin is provided on the indexing platform and the indexing holes are provided in the base platform. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (holding that claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device).

Claims **4, 5, 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBolt in view of Casteel et al. (US 2001/0043004 A1).

Although Speedview® is configured to be secured to the stage of a microscope, the DeBolt reference does not explicitly disclose slip-resistant feet for securing the Speedview® to the stage of a microscope.

Casteel et al. disclose a piece of furniture comprising a textured bottom surface made from polyurethane (see [0041]). The reference discloses that the polyurethane surface reduces slippage. In light of the disclosure of Casteel et al., it would have been obvious to one of ordinary skill in the art to secure the Speedview® to the microscope stage using polyurethane slip-resistant feet.

Claims **6 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBolt in view of Ozeki (US 4,836,667).

Although Speedview® is configured to be secured to the stage of a microscope, the DeBolt reference does not explicitly disclose pins for securing the Speedview® to the stage of a microscope.

Ozeki discloses a microscope stage configured to receive a sample substrate thereon wherein the stage comprises pins 77 located at the corners for securing the sample substrate thereto, and the sample substrate comprises corresponding holes for receiving the pins (see claim 6 and Fig. 1B). In light of the disclosure of Ozeki, it would have been obvious to one of ordinary skill in the art to provide the base platform of the Speedview® with holes for receiving pins protruding from the stage of a microscope.

Response to Arguments

Applicant's arguments with respect to the rejection have been fully considered and they are persuasive. The Examiner agrees with Applicant that the holes disclosed by the DeBolt reference do not constitute a groove. Therefore, the rejections have been withdrawn. However, upon further consideration, new grounds of rejection have been made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL S. HYUN whose telephone number is (571)272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul S Hyun/
Examiner, Art Unit 1797

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797